

## REMARKS

### **INTRODUCTION**

In accordance with the foregoing, claims 8, 19, 25, 35, 42, 45, 46 and 50-53 have been amended. No new matter is being presented. Therefore, claims 1-53 are pending and reconsideration is requested.

### **FORMALLY ALLOWED CLAIMS AND ALLOWABLE SUBJECT MATTER**

Applicant acknowledges with appreciation that claims 16-18 have been allowed and that claims 5, 6, 14, 15, 23, 31-34, 39 and 40 have been found to include allowable subject matter.

### **AMENDMENTS TO CLAIMS 45 AND 46**

Applicant notes that claims 45 and 46 have been amended in accordance with the amendments of claim 42. These amendments are not intended to limit the scope of the application and should not be interpreted to do so.

### **REJECTION UNDER 35 U.S.C. §102**

In the Office Action, the Examiner rejected claims 1-4, 7-13, 19-22, 24-30, 35-38 and 41-54 under 35 U.S.C. §102 in view of European Patent No. 0500391 (hereinafter referred to as the '391 reference). This rejection is respectfully traversed and reconsideration is requested.

Regarding the rejections of claims 8-13, 19-22, 24-30, 35-38, 41-46, and 50-54, briefly, it is noted that claims 8, 19, 25, 35, 42 and 50-53 have been amended. As such, these claims now generally recite that representative portions of tracks of a recording medium or recorded data recorded on the medium are designated as containing the representative portions. The '391 reference, on the other hand, is directed to a method of operating an audio device by switching between three scanning modes that allow a user to listen to portions of tracks in various orders. Thus, it is inherent to the reference that the portions of the tracks to be listened to have previously been designated. In other words, the '391 reference is silent as to the claimed designating of areas on which representative portions of tracks are to be recorded.

Therefore, applicant respectfully asserts that claims 8, 19, 25, 35, 42 and 50-53 are patentably distinguished from the '391 reference and that therefore the rejections of claims 8, 19, 25, 35, 42 and 50-53 are overcome.

Regarding the rejections of claims 9-13, 20-22, 24, 26-30, 36-38, 41, 43-46 and 54, it is noted that since these claims depend from claims 8, 19, 25, 35, 42 and 53, the rejections of

these claims are also overcome for at least the reasons as set forth above.

Regarding the rejections of claims 1-4, 7 and 47-49, it is noted that claims 1 and 47, as originally written, recite "designating a particular portion on a track as a representative portion of the track when recording or reproducing data to or from a recording medium including a plurality of tracks," and "recording data which designates the starting point and the ending point of the sample portion in a cell associated with the audio selection." Therefore, applicant respectfully asserts that these claims are patentably distinguished from the '391 reference for similar reasons as set forth above and that the rejections of these claims are overcome.

Regarding the rejections of claims 2-4, 7, 48 and 49, it is noted that these claims depend from claims 1 and 47, respectively, and that the rejections of these claims are also overcome for at least the reasons set forth above.

### **CONCLUSION**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, it is respectfully submitted that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any additional fees associated with the filing of this Amendment, please charge the same to our Deposit Account No. 50-3333.

Respectfully submitted,

STEIN, MCEWEN & BUI LLP

By:   
Howard I. Levy  
Registration No. 55,378

1400 Eye Street, NW, Suite 300  
Washington, D.C. 20005  
Telephone: (202) 216-9505  
Facsimile: (202) 216-9510

Date: 3/8/05